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BEFORE THE SURFACE TRANSPORTATION BOARD

34608  
FINANCE DOCKET NO. ~~34486~~

OHIO VALLEY RAILROAD COMPANY  
-ACQUISITION AND OPERATION EXEMPTION-  
HARWOOD PROPERTIES, INC.

MOTION FOR EXTENSION OF TIME TO RESPOND  
TO PETITION FOR EXPEDITED RELIEF

**INDIANA SOUTHWESTERN RAILWAY CO.**

Daniel A. LaKemper, Esq.  
General Counsel  
1318 S. Johanson Road  
Peoria, Illinois 61607  
Tel.: (309) 697-1400  
Fax: (309) 697-8486

Dated: November 10, 2004.

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
34608  
FINANCE DOCKET NO. ~~34486~~

OHIO VALLEY RAILROAD COMPANY  
-VERIFIED NOTICE OF EXEMPTION-  
HARWOOD PROPERTIES, INC.

MOTION FOR EXTENSION OF TIME TO RESPOND  
TO PETITION FOR EXPEDITED RELIEF

Comes now INDIANA SOUTHWESTERN RAILWAY CO. ("ISW"), and respectfully requests that the Board grant a 20-day extension of time for ISW to Respond to Ohio Valley Railroad Company's ("OVR") Petition for Expedited Relief for Service Emergency, and in support thereof states as follows:

There is no service emergency and there are no cars in common carrier transit awaiting shipment. The one car that OVR cites in its Petition is a passenger car moving on its own wheels for which no way-bill has been issued. It is not a common carrier movement.

ISW has, since the filing of the Petition, diligently sought to resolve the matter, and is currently awaiting further information from the car owner that has a material bearing on this situation.

OVR, contrary to their representation, has no right to trackage rights or access to CSX. The agreement allegedly granting such access does not do so, nor could it grant trackage rights, since their alleged predecessor in title was a non-carrier.

Despite the allegation that OVR has "moved up" the effective date of its reporting marks, OVR remains unable to actually provide rail service, and is using this proceeding

in an attempt to force ISW to grant trackage rights or other concessions that OVR is not entitled to.

No harm will come to OVR, the car owner, CSX, or any other party by granting this extension, has no traffic has been offered to ISW. The Petition was filed in bad faith and allowing ISW some additional time to determine the problem and resolve the "service emergency" informally will not unfairly prejudice anyone.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel A. LaKemper". The signature is fluid and cursive, with the first name "Daniel" and last name "LaKemper" clearly distinguishable.

Daniel A. LaKemper, Esq.  
General Counsel  
Indiana Southwestern Railway Co.  
1318 S. Johanson Road  
Peoria, Illinois 61607  
Tel.: (309) 697-1400

VERIFICATION

I, Daniel A. LaKemper, General Counsel of Indiana Southwestern Railway Co., verify under penalty of perjury that I have read the above and foregoing Motion to Reconsider Petition to Reject or Revoke; that I have knowledge of the facts stated therein; and that those facts are true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file the foregoing document.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was served by sending it via UPS Next Day Air courier service, all charges paid, this 10<sup>th</sup>. Day of November, 2004, to the following:

Richard R. Wilson, Esq.  
Vuono & Gray, LLC  
2310 Grant Building  
Pittsburgh, PA 15219-2383

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